

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. Contract ID Code Cost Contract		Page 1 Of 14	
2. Amendment/Modification No.  11		3. Effective Date  2007MAY21		4. Requisition/Purchase Req No.  SEE SCHEDULE		5. Project No. (If applicable)	
6. Issued By U.S. ARMY TACOM LCMC AMSTA-AQ-AHLC KEITH AHLSTROM (586)574-8107 WARREN, MICHIGAN 48397-5000 HTTP://CONTRACTING.TACOM.ARMY.MIL WEAPON SYSTEM: WPN SYS: JW EMAIL: KEITH.AHLSTROM@US.ARMY.MIL		Code W56HZV		7. Administered By (If other than Item 6) DCMA DETROIT U.S. ARMY TANK & AUTOMOTIVE COMMAND (TACOM) ATTN: DCMAE-GJD WARREN, MI 48397-5000  SCD C PAS NONE ADP PT HQ0337		Code S2305A	
8. Name And Address Of Contractor (No., Street, City, County, State and Zip Code)  GENERAL DYNAMICS LAND SYSTEMS 38500 MOUND ROAD STERLING HEIGHTS, MI 48310-3260  TYPE BUSINESS: Large Business Performing in U.S.				<input type="checkbox"/>		9A. Amendment Of Solicitation No.	
				<input type="checkbox"/>		9B. Dated (See Item 11)	
				<input checked="" type="checkbox"/>		10A. Modification Of Contract/Order No. W56HZV-06-G-0006/0002	
				<input type="checkbox"/>		10B. Dated (See Item 13) 2006JUL28	
Code 7W356		Facility Code					
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS							
<input type="checkbox"/> The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing items 8 and 15, and returning _____ copies of the amendments: (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.							
12. Accounting And Appropriation Data (If required) ACRN: AC NET DECREASE: -\$241,314.00							
13. THIS ITEM ONLY APPLIES TO MODIFICATIONS OF CONTRACTS/ORDERS KIND MOD CODE: G It Modifies The Contract/Order No. As Described In Item 14.							
<input type="checkbox"/> A. This Change Order is Issued Pursuant To: The Changes Set Forth In Item 14 Are Made In The Contract/Order No. In Item 10A.							
<input type="checkbox"/> B. The Above Numbered Contract/Order Is Modified To Reflect The Administrative Changes (such as changes in paying office, appropriation data, etc.) Set Forth In Item 14, Pursuant To The Authority of FAR 43.103(b).							
<input checked="" type="checkbox"/> C. This Supplemental Agreement Is Entered Into Pursuant To Authority Of: Mutual Agreement							
<input type="checkbox"/> D. Other (Specify type of modification and authority)							
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input checked="" type="checkbox"/> is required to sign this document and return _____ copies to the Issuing Office.							
14. Description Of Amendment/Modification (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)  SEE SECOND PAGE FOR DESCRIPTION							
Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.							
15A. Name And Title Of Signer (Type or print)				16A. Name And Title Of Contracting Officer (Type or print) JOHN REGENHARDT JOHN.REGENHARDT@US.ARMY.MIL (586)574-6973			
15B. Contractor/Offeror  (Signature of person authorized to sign)		15C. Date Signed		16B. United States Of America  By _____ /SIGNED/ (Signature of Contracting Officer)		16C. Date Signed  2007MAY21	
NSN 7540-01-152-8070 PREVIOUS EDITIONS UNUSABLE				30-105-02		STANDARD FORM 30 (REV. 10-83) Prescribed by GSA FAR (48 CFR) 53.243	

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Name of Offeror or Contractor: GENERAL DYNAMICS LAND SYSTEMS			

SECTION A - SUPPLEMENTAL INFORMATION

1. Bilateral Modification 11 is issued to incorporate the following change:
- a. The parties mutually agree to deobligate \$241,314.00 from CLIN 0003AA. This CLIN was established by Modification 04 to fund the Long Lead Material (LLM) and Termination Liability for the RESET of 240 each M1A2 SEpv1 to M1A2 SEpv2 vehicles on a cost-reimbursable (no fee) basis. This deobligation is necessary to cover the cost to procure 198 each FCCP 755 Microprocessors, P/N WED3C755E8M-300BHM for the ISR 180 program.
2. Modification 11 results in the following changes to the contract:
- a. Section B, CLIN 0003AA is decreased from \$277,348,479.00 by \$241,314.00 to \$277,107,165.00.
- b. Section H, H.4.4.5, Decrease Termination Liability schedule for CLIN 0003AA by \$241,314.00.
- c. Section H, H.4.6.3, Decrease the maximum amount the Government is liable for if contract is terminated.
3. As a result of this change the net contract funded amount is changed as follow:
- |                              |                  |
|------------------------------|------------------|
| Current Funded Amount:       | \$351,060,408.00 |
| Amount decreased by this mod | \$ 241,314.00    |
| New Funded Amount:           | \$350,819,094.00 |
4. As a result of this Modification, the following contract pages are either substituted or added:
- a. Page B4 is deleted and replaced by an identically numbered page.
- b. Page H2 is deleted and replaced by an identically numbered page.
- c. Page H4 is deleted and replaced by an identically numbered page.
5. All other terms and conditions of the contract are unchanged and remain in full force and effect.

\*\*\* END OF NARRATIVE A 0013 \*\*\*

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ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003AA	SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS				
	<u>LONG LEAD MATERIAL 240 VEH</u>	240	EA		\$ <u>277,107,165.00</u>
	NOUN: M1A2 SEP LONG LEAD MATERIAL PRON: EH7CR156EH      PRON AMD: 01      ACRN: AC AMS CD: 137010NC000				
	<u>Inspection and Acceptance</u> INSPECTION: Destination      ACCEPTANCE: Destination				
	<u>Deliveries or Performance</u> DLVR SCH                          PERF COMPL <u>REL CD</u> <u>QUANTITY</u> <u>DATE</u> 001                          240                          30-NOV-2008				
	\$     277,107,165.00				

Name of Offeror or Contractor: GENERAL DYNAMICS LAND SYSTEMS

SECTION G - CONTRACT ADMINISTRATION DATA

LINE	PRON/ AMS CD/ ITEM MIPR	ACRN	OBLG STAT/ JOB ORD NO	PRIOR AMOUNT	INCREASE/DECREASE AMOUNT	CUMULATIVE AMOUNT
0003AA	EH7CR156EH 137010NC000 B17LIX137NMC	AC	1 7LIRNG	\$ 277,348,479.00	\$ -241,314.00	\$ 277,107,165.00
				NET CHANGE	\$ -241,314.00	

SERVICE NAME	NET CHANGE BY ACRN	ACCOUNTING CLASSIFICATION	ACCOUNTING STATION	INCREASE/DECREASE AMOUNT
Army	AC	21 72020000076D8030P1370102577 S20113	W56HZV	\$ -241,314.00
				NET CHANGE \$ -241,314.00

	PRIOR AMOUNT OF AWARD	INCREASE/DECREASE AMOUNT	CUMULATIVE OBLIG AMT
NET CHANGE FOR AWARD:	\$ 351,060,408.00	\$ -241,314.00	\$ 350,819,094.00

ACRN	EDI ACCOUNTING CLASSIFICATION
AC 21 070720200000 S20113 76D8030137010NC0002577	7LIRNGS20113 W56HZV

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SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1. DEMILITARIZATION OF ITEMS

H.1.1. The Government shall provide demilitarization instructions as required.

H.2. SMALL, SMALL DISADVANTAGED, AND WOMEN-OWNED BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS) 252.219-7003 (APR 1996)

H.2.1. In furtherance of the Government's policy of promoting the development of small disadvantaged business enterprises, the contractor agrees to award subcontracts to such enterprises, as they are defined in the referenced clause to the maximum practicable extent consistent with efficient contract performance.

H.2.2. The Contractor's Small Business and Small Disadvantaged Business Subcontracting Plan dated July 20,2006 is incorporated into the solicitation or Contract by reference.

H.3. CONTRACT - ORDER OF PRECEDENCE

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

- (a) the Schedule (excluding the specifications);
- (b) representations and other instructions;
- (c) contract clauses;
- (d) other documents, exhibits, and attachments; and
- (e) the specifications.

The specifications include the ERR.

Among the specifications, the following is the order of precedence for the Retrofit M1A2 SEP VERSION 2 specifications contained in C.2.

- 1. Any Interface Control Document referenced in the System Specification and Provision C.2.7.;
- 2. System Specification;
- 3. Prime Item Product Fabrication;
- 4. LRU Specifications listed in Attachment 003
- 5. The ERR/Technical Specifications; and
- 6. Other specifications.

H.4 LIMITATION OF GOVERNMENT LIABILITY

H.4.1 Pursuant to FAR 52.216-24 (APR 1984):

H.4.1.1 In performing this contract, the contractor is not authorized to make expenditures or incur obligations exceeding \$72,559,173 for CLIN 0001 and \$242,873 for CLIN 0002.

H.4.1.2 The maximum amount for which the Government shall be liable if this contract is terminated is \$72,559,173 for CLIN 0001 and \$242,873 for CLIN 0002.

H.4.2 CONTRACT DEFINITIZATION (October 1998) DFAR 252.217-7027

H.4.2.1 A Firm Fixed Price definitive price is contemplated for the Abrams M1A2 SEPv1 to M1A2 SEPv2 SEP Reset described in the schedule under CLINs 0001 and 0005AA and 0002 and 0005AB. The contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive price for these CLINs in the Schedule and the terms of a definitive contract to include 1) all clauses required by the Federal Acquisition Regulation (FAR) on the date of execution of the definitive contract, 2) all clauses required by law on the date of execution of the definitive contract, and 3) any other mutually agreeable clauses, terms, and conditions. The contractor agrees to submit a fixed-price proposal and cost or pricing data supporting its proposal for each CLIN in the Schedule.

<p align="center"><b>CONTINUATION SHEET</b></p>	<p align="center"><b>Reference No. of Document Being Continued</b></p> <p align="center"><b>PIIN/SIIN</b> W56HZV-06-G-0006/0002      <b>MOD/AMD</b> 11</p>	<p align="center"><b>Page</b> 6 <b>of</b> 14</p>
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**Name of Offeror or Contractor:** GENERAL DYNAMICS LAND SYSTEMS

H.4.2.1.1 The contractor agrees to submit a fixed-price proposal and cost or pricing data supporting its proposal for the 240 each vehicles concurrent with the contractors fixed-price proposal for 72 each vehicles in accordance with H.4.2 above.

H.4.2.2 The schedule for definitizing the unpriced CLINs in the schedule of the Contract is:

CLIN 0001 (72 each)

Submission of a Qualifying Proposal: 60 Days after award

Completion of Negotiations: 150 Days after award

Completion of Definitization: 180 Days after award

H.4.2.3 If agreement on a definitive contract to supersede this letter contract is not reached by the target date in paragraph H.4.2.2 of this section, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with Subpart 15.4 and Part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the Limitation of Government Liability clause.

H.4.2.4 After the Contracting Officer's determination of price or fee, the contract shall be governed by --

(i) All clauses required by the FAR on the date of execution of this letter contract for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph H.4.2.3;

(ii) All clauses required by law as of the date of the Contracting Officer's determination; and (iii) Any other clauses, terms, and conditions mutually agreed upon.

H.4.2.5 To the extent consistent with subparagraph H.4.2.4 of this section, all clauses, terms, and conditions included in this letter contract shall continue in effect, except those that by their nature apply only to a letter contract.

**H.4.3 CEILING PRICE FOR DEFINITIZATION**

H.4.3.1 The parties agree that the definitized firm fixed price of CLINs 0001 and 0002 shall not exceed \$145,604,091.

**H.4.4 FUNDING SCHEDULE AND TERMINATION LIABILITY \*(CLIN 0003)**

H.4.4.1 Funds sufficient to enable acquisition of Long Lead Material consisting of raw materials, purchased parts, assemblies, subassemblies, accessories, components and associated labor required to manufacture and deliver the planned quantity of Abrams M1A2 SEPV2 tanks in accordance with the delivery schedule in Section F.

H.4.4.2 Funds in the amount set forth below are presently available and are estimated by the parties to be sufficient to enable the contractor to initiate the acquisition and manufacture of Long Lead Material.

H.4.4.3 Upon availability to the Contracting office of additional funds, the Contractor shall be notified in writing, and the contract schedule shall be amended to reflect the new total amount of funds obligated for Long Lead Material. In the event that the additional funds are not made available as indicated in H.4.4.5 below, or by such other date as may be mutually agreed to by the parties, this contract will, be upon written request of the Contractor, terminated pursuant to the "Termination (Cost-Reimbursement)" clause.

H.4.4.4 The Government's total liability under CLIN 0003 including actions under the Termination Clause, shall be expressly limited to the amount of actual funding obligated on the contract. The Government shall not be required to reimburse the contractor for costs incurred in excess of such amount and the contractor shall not be required to continue performance or otherwise incur costs in excess of the amounts obligated on the contract.

H.4.4.5 The Termination Liability funding schedule for CLIN 0003 is as follows:

MONTH(s)	AMOUNT	LIABILITY (CUMULATIVE)
October-08	\$ 1,942,528	\$277,107,165**
November-08	\$ 3,027,677	\$280,134,842
December-08	\$ 4,331,055	\$284,465,897
January-09	\$ 1,262,323	\$285,728,220
February-09	\$ 57,490	\$285,785,710

\*\* Indicates the amount funded and the amount under this contract that the Government is liable.

H.4.4.6 Funding per H.4.4.4 may be provided by issuance of a unilateral modification obligating the scheduled amount(s). Funding may be provided at any time prior to the dates shown.

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H.4.4.7 In the event the Government terminates this effort the termination liability amount for which the Government will be liable for is the total amount through the month that the termination is made, regardless of the amount funded, provided however, that in no event shall the Government be liable for more than the CLIN amount set forth in H.4.6.3.

H.4.5 FUNDING SCHEDULE AND TERMINATION LIABILITY \*(CLIN 0004)

H.4.5.1 Funds sufficient to enable acquisition of Long Lead Material - for TUSK components, Tank Infantry Phone (TIP) and Power Distribution Box (PDB) - consisting of raw materials, purchased parts, assemblies, subassemblies, accessories, components and associated labor required to manufacture and deliver the planned quantity of Abrams M1A2 SEPv2 tanks in accordance with the delivery schedule in Section F.

H.4.5.2 Funds in the amount set forth below are presently available and are estimated by the parties to be sufficient to enable the contractor to initiate the acquisition and manufacture of Long Lead Material.

H.4.5.3 Upon availability to the Contracting office of additional funds, the Contractor shall be notified in writing, and the contract schedule shall be amended to reflect the new total amount of funds obligated for Long Lead Material. In the event that the additional funds are not made available as indicated in H.4.4.5 below, or by such other date as may be mutually agreed to by the parties, this contract will, be upon written request of the Contractor, terminated pursuant to the "Termination (Cost-Reimbursement)" clause.

H.4.5.4 The Government's total liability under CLIN 0004 including actions under the Termination Clause, shall be expressly limited to the amount of actual funding obligated on the contract. The Government shall not be required to reimburse the contractor for costs incurred in excess of such amount and the contractor shall not be required to continue performance or otherwise incur costs in excess of the amounts obligated on the contract.

H.4.5.5 The Termination Liability funding schedule for CLIN 0004 is as follows:

MONTH(s)	AMOUNT	LIABILITY (CUMULATIVE)
December-06	\$ 1,412	\$ 1,412
January-07	\$ 26,444	\$ 27,856
February-07	\$ 31,618	\$ 59,474
March-07	\$ 34,008	\$ 93,482
April-07	\$ 46,902	\$ 140,384
May-07	\$ 44,798	\$ 185,182
June-07	\$ 58,556	\$ 243,738
July-07	\$ 39,264	\$ 328,282
August-07	\$ 54,305	\$ 337,307
September-07	\$ 52,186	\$ 389,493
October-07	\$ 41,337	\$ 430,830
November-07	\$ 47,007	\$ 477,837
December-07	\$ 52,684	\$ 530,521
January-08	\$ 65,008	\$ 595,529
February-08	\$ 35,399	\$ 630,928
March-08	\$ 54,056	\$ 684,984
April-08	\$ 35,131	\$ 720,115
May-08	\$ 32,108	\$ 752,223
June-08	\$ 29,703	\$ 781,926
July-08	\$ 30,229	\$ 812,155
August-08	\$ 30,704	\$ 842,859
September-08	\$ 14,416	\$ 857,275
October-08	\$ 18,053	\$ 875,328
November-08	\$ 6,948	\$ 882,276
December-08	\$ 9,631	\$ 891,907
January-09	\$ 13,777	\$ 905,684
February-09	\$ 4,016	\$ 909,700
March-09	\$ 183	\$ 909,883**

\*\* Indicates the amount funded and the amount under this contract that the Government is liable.

H.4.5.6 Funding per H.4.4.5 may be provided by issuance of a unilateral modification obligating the scheduled amount(s). Funding may be provided at any time prior to the dates shown.

H.4.5.7 In the event the Government terminates this effort the termination liability amount for which the Government will be liable for is the total amount through the month that the termination is made, regardless of the amount funded, provided however, that in no event shall the Government be liable for more than the CLIN amount set forth in H.4.6.4.

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H.4.6.1. LIMITATION OF GOVERNMENT LIABILITY AND FUNDS (LLM CLIN's 0003 and 0004)

H.4.6.2 LONG LEAD MATERIAL FUNDING (LLM). (LLM CLIN's 0003 and 0004)

H.4.6.3 LIMITATION OF GOVERNMENT LIABILITY (APR 84)(FAR 52.216-24) The maximum amount for which the Government shall be liable if LLM CLINs 0003 of this contract is terminated is \$277,107,165.

H.4.6.4 LIMITATION OF GOVERNMENT LIABILITY (APR 84)(FAR 52.216-24) The maximum amount for which the Government shall be liable if TUSK LLM CLINs 0004 of this contract is terminated is \$909,883.

H.5. SYSTEMIC WARRANTY

H.5.1. Definitions:

H.5.1.1. Acceptance" is execution by an authorized Government Representative of a DOD Form 250 and means the act by which the Government assumes, for itself or as an agent of another, ownership of the identified supplies or recognizes completion of total performance specified in the Order.

H.5.1.2. Supplies" are all new and refurbished SEP hardware, all M1A2 hardware upgraded to the M1A2 SEP configuration, the installation and assembly of the foregoing hardware into M1A2 SEPv2 RESET Tanks, and all software. The contractor is responsible for any defect or non-compliance with the essential performance requirements (see H.5.1.5) that is caused by these supplies except as limited by Provision H.5.9.3. The warranty rights and responsibilities of the Government and the contractor for the M1A2 hardware re-used without modification are set forth in DAAE07-01-G-N001/0003 and remain unchanged.

H.5.1.3. Vehicle" is the Abrams Series Tank delivered with new or upgraded LRUs and SRUs under this Delivery Order.

H.5.1.4. Failure" is any condition or characteristic in any supplies furnished under the Order that is not in compliance with the requirements of the Order and authorized maintenance documentation.

H.5.1.5. Essential Performance Requirement" is defined as delivered vehicles under warranty meeting the requirements in C.2. (see C.2.6 for GFM converted to CFM), and C.3. of the order, provided that, there shall be no warranty, expressed or implied, related to the additional obligations being undertaken by the Contractor for those "total systems responsibility" requirements which did not exist under delivery order 0009 as applied to the specifications in Section C of this contact."

H.5.1.6. "Design and Manufacturing Requirements" are defined as those structural and engineering plans and manufacturing particulars, including precise measurements, tolerances, materials and finished product tests for the system being produced, as identified in H.5.1.5. above.

H.5.1.7. A "Warranted Design Item" is defined as an item of "supplies" in H.5.1.2., which:

a) is introduced into the baseline configuration by a unilateral decision of the Contractor; or

b) is introduced into the baseline configuration by a change to design, manufacturing, or software requirements embodied in an executed contract change order to the baseline configuration and which has satisfactorily completed the appropriate development and planned tests, as mutually agreed upon, by cognizant Contractor and Government technical personnel.

H.5.1.8. Defects" are defined as:

a) Any condition or characteristic in "supplies" that is not in compliance with the requirements of the Prime Item Product Fabrication Specification, Tank, Combat, as defined in Section C.2.

b) "Defects" under the System Specification defined in Section C.2. are defined as specification non-compliance(s).

c) During this Order, a system level test may result in achievement of a characteristic which i.) was previously untested or ii.) confirms the correction to a known prior non-compliance. If any Warranted Design Item change is introduced subsequent to such test and the change degrades the newly demonstrated compliance, then the degradation will constitute a defect under this clause. This requirement will be applicable on a prospective basis.

H.5.1.9. Reserved.

H.5.1.10. Redesign" is defined as the remedy applicable to correct defective warranted design items when workmanship and material and manufacturing non-conformance have been eliminated as the cause of the failure or defect. "Redesign" applies to systemic defects only.



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H.5.1.11. Systemic Defect" is a classification of failures which occurs, or may occur, with a frequency, pattern, or sameness to indicate a logical regularity of occurrence which exceeds expected failures and would justify multiple vehicle corrective action.

H.5.1.12. A "Production Lot" for this Order is each squadron of tanks.

H.5.1.13. Appropriate development and planned tests," as it is used in H.5.1.7, is defined as development together with verification testing that is commensurate with the complexity of the subject change as mutually agreed between the parties. Verification testing may include component, subsystem, system and vehicle level testing, incorporating environmental, EMI, EMC, NBC and Nuclear Testing and any necessary vehicle level verification to include confirmation to the Prime Item Product Fabrication Specification, the System Specification, testing in accordance with the FIR and funded by the Government under the current STS contract. Software verification testing may include CSU Test, Integration Test, CSCI Test, Vetronic System Test, Quality Assurance Vehicle Test, Prime Item FIR Vehicle Test (at Lima Army Tank Plant), as well as Government Testing including User-conducted "Beta" testing. In the event that the Government fails to conduct any of the agreed upon testing the parties agree that any characteristic not tested shall not be warranted until such time as the Government funds and the Contractor successfully completes testing on that characteristic as defined in the appropriate test plan.

H.5.2. Coverage:

H.5.2.1. Notwithstanding inspection and acceptance by the Government of supplies furnished under this Order or any clause of this Order concerning the conclusiveness thereof, the Contractor warrants for the periods set forth herein that all supplies provided under this Order:

- a. Will be free from all defects in material and workmanship at the time of delivery that would cause the warranted items to fail to meet the requirements of this Order.
- b. Will conform to the design and manufacturing requirements set forth in Section C of this Order; and
- c. Will meet the essential performance requirements identified in Paragraph H.5.1.5 above.

H.5.2.2. The Contractor shall, to the extent the Contractor's suppliers customarily provide to customers a Greater Warranty covering specific supplies, provide such greater warranty as available for those specific components. The contractor is identifying such supplies and warranty terms under the Contractor/Government TAPS Contract.

H.5.3. Contractor Liability: The Contractor's maximum liability under this entire clause H.5 for the cumulative corrective action taken on supplies delivered under each CLIN shall be limited to the ceiling prices given below.

CLIN 0001 and 0002: \$TBD prior to definitization of the letter contract.

H.5.4. WARRANTY FOR SYSTEMIC DEFECTS:

H.5.4.1. MATERIAL REPAIR/REWORK/REPLACEMENT: In the event the Government determines that a systemic defect exists in the warranted vehicles delivered under this contract, and such defect is determined to be the result of a breach of any of the warranties set forth in paragraph H.5.2 above, then the Contractor shall be liable for timely correction of such systemic defect(s) by repair, rework or replacement of the defective supplies. The Government shall provide reasonable evidence in support of each claim of systemic defect, and where necessary evidence of adequate testing of the warranted design items, to establish the nature of the defect at Government expense. Government expense shall include payment to the Contractor for locating and identifying any failed components in tanks which have been unconditionally accepted by the Government, when so directed to do so by the Contracting Officer.

H.5.4.2. REDESIGN: In addition to the remedy set forth in paragraph H.5.4.1. above, if such a systemic defect exists in a warranted design item, the Contractor shall be liable for redesign of such defective item including any testing required to validate/qualify the proposed redesign, any other effort normally associated with an ECP, provide the redesigned item for vehicles delivered with the defective item and incorporation of the redesign into remaining vehicles to be manufactured under this contract, at no increase in cost to the Government.

H.5.4.3. NOTICE OF A CLAIM: Any claim for correction of a systemic defect, including redesign effort, shall be invoked by the Contracting Officer giving notice to the Contractor within forty-five (45) days after the conditions evidencing systemic defect as set forth in this clause have been provided to the Contracting Officer. The Contractor shall have no liability under this warranty unless such notice is received within forty-five (45) days after completion of the applicable warranty period for systemic defects relating to workmanship and material, design and manufacturing requirements, essential performance requirements or warranted design items. Similarly, the Contractor shall have no liability for System Specification non-compliance unless the Contracting Officer documents with the notice of claim that the noncompliance was a defect as defined in H.5.1.8. The Contracting Officer's notification to the Contractor will include the applicable equipment serial number or the part number or the Federal Stock Number of the defective part, location of equipment to the best of the Government's knowledge, the circumstances surrounding the defect(s), evidence of adequate testing including

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appropriate test reports if not in the Contractor's possession for warranted design claims, and a point of contact to include phone number. The Government shall provide the Contractor at its request, all reasonably available test data related to a test report(s) provided in a claim, if the data is not included in the report(s).

H.5.4.4. The Contractor shall submit to the Contracting Officer a written reasonable recommended redesign plan or corrective action plan within forty-five (45) days, or such other period as may be mutually agreed, after receipt of the Contracting Officer's notice in accordance with H.5.4.3. The Contracting Officer shall, within thirty (30) days after receipt of the Contractor's redesign plan or corrective action plan, either accept or reject the plan. If the Government accepts the plan, the Contractor will proceed with the redesign effort or corrective action at the Contractor's expense. If the Contractor's recommended plan is determined to be inadequate, the Contractor shall be informed of the extent of the inadequacies and shall submit a revised recommendation within thirty (30) days after receipt of such information.

H.5.4.5. The Contractor upon receipt of a warranty claim will provide in the Contractor's format, the Government with warranty tracking data pertaining to the claim to the extent such data may be available in the Contractor's system.

H.5.4.6. If the initial and/or revised recommended redesign is reasonable and can be demonstrated to correct the systemic defect, but the Government directs an alternative design to be implemented, the Contractor shall be entitled to an equitable adjustment for any increased cost to the Contractor caused by implementing the Government's redesign rather than the Contractor's recommended design. In such an event, the Contractor shall have no continuing warranty obligation with respect to the Government directed redesign.

H.5.4.7. Where the Government funded tests for a warranted design item are not satisfactorily completed until after incorporation of the design change into the delivery order, warranty coverage shall commence when items incorporating the design change are initially incorporated into supplies, except that when the item configuration has been further changed as a result of test problems, warranty coverage shall commence when the item containing the configuration that satisfactorily completed the Government funded tests was initially incorporated into supplies.

**H.5.5. WARRANTY PERIOD:**

H.5.5.1. The warranty for material and workmanship for Systemic Defects shall extend from the date of acceptance at JSMC (DD250) to the squadron in the field for a period of fifteen (15) months. If the contractor receives notice of a valid material or workmanship defect within this warranty period, the contractor shall correct such defect in all tanks in which it occurs within the unbroken production lot of the tank upon which notice was given.

H.5.5.2. The Contractor's responsibility for redesign of warranted design items delivered under this Order shall continue for a thirty-six (36) month period following first delivery of the component, part, or system software in a warranted vehicle.

**H.5.6. RIGHT TO EQUITABLE ADJUSTMENT:**

H.5.6.1. If, upon determination of a warranty claim as provided under H.5.4, the Government elects to repair the warranted items at Government expense, or if the Government elects not to require redesign, repair or replacement of defective or non-conforming warranted supplies to which it is otherwise entitled at Contractor expense under this warranty, the Order shall be subject to a downward equitable adjustment.

H.5.6.2. The amount of the equitable adjustment for repair/replacement of warranted supplies shall be the lower of the replacement cost or the agreed upon repair cost to the Contractor. The replacement cost shall be the amount originally charged to the Government in the Contractor's Bill of Material for the defective supplies plus Contractor mark-ups and profit (Component's price not cost). The Contractor shall forward payment quarterly for all warranty claims by the Government for money reimbursement, which were resolved during the previous quarter. Payment shall be sent to the Abrams PM Office, Plans and Program Branch (SFAE-ASM-AB-PP) with checks made out to "THE TREASURER OF THE UNITED STATES (SFAE-ASM-AB-PP), with a list identifying the user's warranty claim number, date of the claim, amount of each, and Order number under which each claim arose. A copy of the list marked with the identifying check number shall be provided to the Contracting Officer concurrent with payment. The Order will be equitably adjusted in an amount equal to the payment.

**H.5.7. Field Maintenance Responsibility and Liability:**

H.5.7.1. Maintenance performed by Government personnel in accordance with published maintenance procedures, shall not void any coverage under this warranty and shall be at Government expense, including parts and labor.

H.5.7.2. There will be no voiding of warranty for use by the Government of MIL Spec Parts unless it can be determined that failure is caused thereby.

H.5.8. Exclusions: The provisions of this warranty shall not apply to any warranted supplies if failure has been caused by:

- a. Improper installation or maintenance by the Government.
- b. Operation contrary to the validated and verified Technical Manuals (TMs), design operating parameters, or other written

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instructions provided to and approved by the Government in such a way as to be a principal cause of the failure.

- c. Repair or alteration by the Government in such a way as to cause the failure.
- d. Misuse, neglect, or accident, including, but not limited to, fire or explosion.
- e. Participation in a combat mission or having sustained combat damage from a combat mission.
- f. Operation outside the specific installation and operating limits specified in Prime Item Product Fabrication Specification or System Specification operating parameters in such a way as to be a principal cause of the failure.
- g. Foreign object damage.
- h. Installation or operation in other than its intended use.
- i. Force Majeure, subversion, riots, vandalism, or sabotage, or fire or explosion induced by or originating from sources external to the warranty items.
- j. Damage attributable to improper packaging, crating, handling, or storage by the Government to the extent of said damage.

H.5.9. Disclaimers and Limitations:

H.5.9.1. Disputes arising under this Order shall be resolved in accordance with the clause of this Order entitled "Disputes."

H.5.9.2. This warranty is the only warranty applicable to the supplies delivered hereunder and is expressed in lieu of all other guarantees or warranties, express or implied, including any implied warranty of merchantability or fitness for a particular purpose. Additionally, the Contractor shall not be liable for consequential damages resulting from a failure under this clause of supplies delivered hereunder.

H.5.9.3. With respect to Government-Furnished Materials (GFM), the Contractor's warranty including its warranty with respect to design shall extend only to proper installation in accordance with the TDP so as not to degrade its performance and/or reliability, unless the Contractor is required to perform modification or authorized repair on such property, in which case the Contractor's warranty shall extend to such modification or authorized repair.

H.5.9.4. Unless specifically provided under this contract, this warranty is non-transferable to other than the intended user of the vehicles.

H.5.9.5. The rights and remedies of the Government provided in this clause:

- a. Shall not be affected in any way by any terms and conditions of this Order concerning the conclusiveness of inspection and acceptance.
- b. Are in addition to, and do not limit, any rights afforded to the Government by any other clause of this Order including, but not limited to, initial acceptance test criteria.

H.5.9.6. Individual claims where the total amount of systemic defect hardware replacement/repair prices are less than \$75,000 each will not be covered by this clause.

H.5.9.7. The Contractor shall not be liable for warranty claims if it is determined that the failed part(s) was provided by any source other than the Contractor.

H.5.9.8. The Government will provide the Contractor with reimbursement for reasonable and necessary expenses incurred for analysis, inspection and testing of alleged systemic defects where no failure is determined to have occurred and the warranty claim was asserted without reasonable cause.

H.5.9.9. The Government shall bear the costs and liability for transportation resulting from actions under this clause.

H.5.10. Bar Coding: If the Contractor elects to bar code parts or components, information collected pursuant to the Bar Coding system shall be made available to the Government upon request.

H.5.11. OTHER: The parties agree that the Order as awarded includes no direct cost for administration or contingent costs related to this warranty. The parties further agree that the Prime Contractor's own direct administrative or contingent costs related to warranty shall not be recoverable under any equitable adjustment made pursuant to the Changes clause of this contract.

H.6. MATERIAL COST

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H.6.1. To assure conformance to the nuclear hardness requirement of SA-SA00001D, the Contractor may use electronic material that is certified as being nuclear hard to the appropriate levels. Semiconductors and higher assemblies procured from the Radiation Tolerant Assurance Source of Supply Center (RTASSC) are considered certified, to the levels and conditions specified on the corresponding White Sands Standard Drawings (WSDs). Additionally, a nuclear hardness Letter of Certification (LOC) from the RTASSC for higher assemblies will meet this material requirement. The use of source controlled drawings to ensure nuclear hardness requirements are met is no longer required. The Contractor is not responsible for the nuclear hardness of electronic material procured using WSDs and LOCs from RTASSC, to the extent and under the conditions provided by the WSDs and LOCs. For semiconductors microcircuit and higher assemblies procured from other than RTASSC, the Contractor is responsible for meeting the nuclear hardness requirements of the System Specification to the extent previously demonstrated in Government testing.

H.7. COMMINGLING OF MATERIAL

H.7.1. The Contractor and its subcontractors are authorized to commingle material produced, purchased, or otherwise furnished by the Contractor under this Delivery Order, as well as Shop Replaceable Units (SRU's) and Line Replaceable Units (LRU), and other materials provided by the Government, except for the material described in H.7.2 below. For the purpose of this provision, the same part manufactured to different revision levels may be commingled, except as described in H.7.2. below and where parts are specifically designated as obsolete by TDP revision. The contractor may not commingle Government material from the Reset Delivery Orders (DAAE07-01-G-N001/0013, DAAE07-01-G-N001/0017, and any subsequent Reset Delivery Orders) with the Government material under any other contract.

H.7.2. Parts and Components which may not be commingled are:

H.7.2.1 Parts on GFM list (Attachment 001, to include traditional GFM and all FSS parts from TACOM-Warren and TACOM Rock-ISLAND) with Contractor furnished parts.

H.7.2.2. Engine. Starting in FY07, the Contractor will receive two types of GFM engines: TIGER Abrams engines, and Egyptian Engines (for kitting).

- a. TIGER engines will go into M1A2 SEP Retrofit, M1A2 SEP Reset and M1A1 AIM vehicles.
- b. Egyptian engines only go into kits for shipment to Egypt.

H.7.2.3. Transmissions. The Contractor will have three transmission types as listed below.

- a. SEP Transmissions.
- b. AIM transmissions.
- c. Egyptian transmissions.

H.7.2.4. Cannon Assemblies. These can be either new or reclaimed. These cannot be mixed.

- a. M1A1 AIM, M1A2 SEP Retrofit, M1A2 SEP Reset, use reclaimed cannon assemblies.
- b. SEP AUT and Government of Egypt (GOE) use new 120mm cannon assemblies.

H.7.2.5 Parts refurbished by ANAD under M1A1 AIM Reset with M1A1 AIM or M1A2 SEP Retrofit, or M1A2 SEP Reset material tagged with "-P".

H.8. M1A2 SEP ABRAMS RESET TANK (M1A2 SEP VERSION 2) PROGRAM CLOSE-DOWN

H.8.1. The Delivery Order prices do not include any direct costs associated with the close-down of the M1A2 SEP VERSION 2 vehicle program.

H.8.2. The Contractor's close-down actions not in the vehicle prices, based on Part 45 of the Federal Acquisition Regulations, are:

- a. Preparation of machines for shipment.
- b. Preparing final inventories, boxing and identifying special tooling, test equipment, fixtures and gages required to process parts assigned to various pieces of equipment.
- c. Boxing and protecting any special controllers, etc., that is required for machines.
- d. Layaway and ninety (90) day in-place maintenance of Government production and research property.
- e. Update of all property records for Government production and research property.
- f. Maintenance of real property from the last production delivery through 31 December 2009.

H.9 Reserved.

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H.10 SPECIAL TOOLING AND SPECIAL TEST EQUIPMENT

H.10.1. Special Tooling and Special Test Equipment acquired or accountable under Contract DAAE07-95-C-0292 to be used on this contract shall be authorized on a rent free use non-interference basis under contract DAAE07-95-C-0292.

H.11 ANAD Rebuild Components

H.11.1 Unless stated otherwise, this clause applies to rebuild components provided to GDLS by ANAD and does not apply to GFM, which is identified on Attachment 001.

H.11.2 GDLS shall provide new material to ANAD and ANAD shall provide Code-F components and Code-A ANAD rebuild components to GDLS in accordance with the workshare agreement, Rev BF, dated November 6, 2006

H.11.3 For ANAD rebuild components the contractor shall be entitled to all equitable adjustments available to him under the Government property clause of this contract subject to the following:

H.11.3.1 No adjustment shall result from instances where the contractors supplies to ANAD result in defects in, damage in, or late delivery of rebuild components from ANAD.

H.11.3.2 The cost to remove and replace defective ANAD rebuild components received from ANAD, including the packaging, handling, and preparation cost for return shipment, is included in the vehicle price. The Government shall bear the cost to return the damaged or defective material to ANAD.

H.11.4 If tanks are otherwise ready for acceptance, otherwise meet the contracts requirements, and the contractor is missing ANAD rebuild components or GFM (Attachment 001), the contractor may elect conditional acceptance of tanks as an equitable remedy. Subject to verification that the conditions of this clause have been met, the Government shall conditionally accept tanks subject to a mutually agreeable withhold of payment. Conditional acceptance may be deemed by the Government at its sole discretion to release the Government from claims for equitable adjustment for late delivery of GFM or ANAD parts on any tanks so accepted.

H.12 RESERVED

H.13. Material Management Accounting System (MMAS) For Anniston Material

H.13.1. There is no requirement for the contractor to maintain an MMAS for material provided to and in the possession of Anniston Army Depot.

H. 14 TANK TEAM REPORTS

H.14.1 The Contractor shall provide required reports (see CDRL A005, Block 16.) in accordance with DD FORM 1423, Data Item Number A005.

H.15. TRANSFER OF OUT OF PRODUCTION MATERIAL INTO DELIVERY ORDER W56HZV-06-G-0006/0001

H.15.1. The Government has acquired Out of Production Material through the Contractor to provide the Government and Contractor material for production and spares. This material was acquired under Contracts DAAE07-00-C-N044 and DAAE07-95-C-0292, and TACOM-Rock Island delivery orders/contracts and managed under DAAE07-01-G-N001/0001.

H.15.2. The contractor's requirements for microcircuits GFM are indicated on Attachment 005 in total. For several of the chips, the Government has purchased sufficient quantities for all SEP retrofit tanks. For those microcircuit chips where the quantities are less than the required quantity for vehicles, redesign of the applicable upper assembly component has eliminated the need for additional microcircuits. The contractor has assured the Government that the quantities of microcircuits listed in Attachment 005 are sufficient to build 72 SEP RESET vehicles with CEEP components and 240 additional vehicles for a total of 312 SEP Retrofit vehicles with CEEP components.

H.15.3. The Government has agreed to transfer to this Delivery Order the Out of Production material in the Qty Req'd For 72 column (and material in the Qty Req'd For 312 column instead) under the conditions below. The quantities in this column contain an 8% attrition factor. The cost of this material will not be transferred from the original contracts. The parties agree that this material is in the possession of the contractor at time of delivery order award.

a. The Contractor is authorized utilization of material identified in Attachment 005 and shall confirm the transfer of this material from the previous contracts to this delivery order by execution of a DD Form 1149.

b. Although still Government-owned material, the contractor shall be responsible for meeting the contract requirements as if the material were contractor-furnished. Storage, protection and accountability shall be provided in accordance with the contractor's approved practices.

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H.15.4. The Contractor has confirmed that costs associated with transfer of Government provided Out of Production material identified in Attachment 005 have been excluded from the Delivery Order prices and supplier purchase orders. Should the Contractor later find this condition to have changed or to have been reported incorrectly, the Contractor shall report this condition within ten (10) days to the TACOM Contracting Officer.

H.16 RESERVED

H.17 Lead Solder

H.17.1 The contract price does not include any costs to comply with any U.S. Environmental Protection Agency or any European Union Restriction of Hazardous Substances (RoHS) Directive (effective July 2006) prospective ban of the use of lead solder and other hazardous material processes. It does include any related costs required to comply with FAR 52.223-3, Hazardous Material Identification and Material Safety Data (Jan 1997).

H.18 RESERVED

H.19 PERFORMANCE BASED PAYMENTS

The parties intend to incorporate a performance-based payment plan into the contract 60 days after contract definitization provided both parties can agree on a methodology for material milestones and on the plan itself. If the parties fail to agree, Progress Payments (FAR 52.232-16, APR 2003) will be added to the order. An interim management status review will be held within 30 days after contract definitization.

All terms and conditions and contract clauses specific to Section H of the Basic Ordering Agreement (W56HZV-06-G-0006) are incorporated by reference into this Delivery Order W56HZV-06-G-0006/0002 plus the following FAR Clause:

	REGULATORY CITE	TITLE	DATE
1.	52.216-11	COST CONTRACT - NO FEE	DEC/1984
2.	52.216-7	ALLOWABLE COST AND PAYMENT	DEC/2002

\*\*\* END OF NARRATIVE H 0001 \*\*\*